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Dividing and Inclosing the Open and Common Fields, Meadows, and Common Fen within the Parishes of *Billingborough* and *Birthorpe*, in the County of *Lincoln*, and for Draining and Improving the said Fen.

Prefs

I  **Whereas** there are in the Manors and Parishes of *Billingborough* and *Birthorpe*, in the County of *Lincoln*, several open common Fields and meadow Grounds, and also a certain common Fen belonging to the said Parishes of *Billingborough* and *Birthorpe*, containing together Two thousand Seven hundred Acres, or thereabouts; and which said common Fen is depastured upon, used, and enjoyed by the Inhabitants of the said respective Parishes:

And whereas the Right Honourable *Matthew* Lord *Fortescue* is Lord of the Manors of *Billingborough* and *Birthorpe* aforesaid;
A and

and *Thomas Burton*, Gentleman, is also Lord of the Manor of *Buckminster Hall* within and held of the said Manor of *Billingborough*; and the said Right Honourable *Matthew Lord Fortescue* and *Thomas Burton* are also Proprietors of divers Messuages, Cottages, Toststeads, and old inclosed Lands within the said Parishes, and intituled to Right of Common in and upon the said Fen; and the said Right Honourable *Matthew Lord Fortescue* is seised of the Rectory impropriate, and also of the Right of Patronage and Presentation of, in, and to the Vicarage of the Parish Church of *Billingborough* aforesaid, and intituled to all Rectorial Tithes arising within the said Parish; the Reverend *John Towers* is the present Vicar thereof, and as such intituled to certain Glebe Lands, and to all the Tithe Wool and Lamb, and all other the Vicarial and Small Tithes arising within the said Parish of *Billingborough*; and the said Lord *Fortescue* is also intituled to all the Tithes arising within the said Parish of *Birtherpe*; and the Reverend *Brownlowe Toller*, Clerk, *Daniel Douglas*, Esquire, *Joseph Stubbins*, Gentleman, and several other Persons, are Proprietors of the Residue of the Lands in the said Fields and Meadows, and in respect of their commonable Houses are intituled to Right of Common upon the said Fields, Meadows, and Fen:

And whereas the Lands of the Proprietors in the said open Fields and Meadows lie intermixed and dispersed in small Parcels, and in their present Situation are incapable of any considerable Improvement, and the said common Fen being frequently overflowed with Water yields but little Profit to those who have Right of Common thereon, and if the said Fen was imbanked and drained, and the same, together with the said Fields and Meadows, was divided and inclosed, the Whole might be improved to the great Advantage of all Parties interested therein:

But as such Division, Inclosure, Imbankation, and Drainage, cannot be effected without the Aid of Parliament;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by the KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That *John Thistlewood* of *Tupholm*, in the said County of *Lincoln*, *Thomas Oldknow* of the Town and County of the Town of *Nottingham*, and *Thomas Hoggard* of *Spalding*, in the said County of *Lincoln*, Gentlemen, and their Successors, to be appointed in Manner herein after mentioned, shall be and they are hereby appointed Commissioners for dividing, setting out, allotting, and inclosing the open Fields, meadow Grounds,

Grounds, common Fen, and other commonable Places in the Manors and Parishes of *Billingborough* and *Birthorpe* aforesaid, and for imbanking and draining the said Fen, and for putting this Act in Execution.

And be it further Enacted, by the Authority aforesaid, That no Person shall be capable of acting as a Commissioner in the Execution of the Powers given by this Act (unless it be the Power hereby given of administering the Oath next herein after mentioned to any other Commissioner or Commissioners) until he shall have taken and subscribed an Oath to the Effect following:

Commissioners to take an Oath.

I A. B. do swear, that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, hear and determine all such Matters as shall be brought before me as a Commissioner, by virtue of an Act of Parliament "for dividing and inclosing the open and common Fields, Meadows, and common Fen within the Parishes of Billingborough and Birthorpe, in the County of Lincoln, and for draining and improving the said Fen," without Favour or Affection to any Person whatsoever.

So help me G O D.

Which Oath it shall and may be lawful for any One of the said Commissioners to administer; and such Commissioner as shall be desired so to do, is hereby required to administer the same to any other of the said Commissioners; and the said Oath so taken and subscribed by each Commissioner shall, within Six Calendar Months after such Oath shall be so taken and subscribed, be inrolled with the Clerk of the Peace for the Division of *Kesteven*, in the said County of *Lincoln*.

And for the more just and equitable Division and Distribution of the said Lands and Fen intended to be divided and inclosed in pursuance of this Act, **Be it further Enacted**, That all the present Inclosures within the said Parishes of *Billingborough* and *Birthorpe*, and all the said open Fields, Meadows, Fen, and other commonable Places intended to be divided and inclosed, imbanked and drained, in pursuance of this Act, shall be surveyed and measured by the said *John Thistlewood* and *Thomas Oldknow*, or One of them; and in case of their Death or Refusal, by such Person or Persons as the said Commissioners for the Time being, or any Two of them, shall appoint: And such Survey shall be reduced into Writing, and the Number of Acres, Roods, and Perches in Statute Measure in the said Fen, and also belonging to each Proprietor in the said Fields, Meadows,

For making a Survey.

Commissioners

dows, and present Inclosures, shall be therein ascertained and expressed; which Survey shall be completed as soon as conveniently may be after the Passing of this Act, and be kept by the said Commissioners for the Purposes thereof.

Surveyors
Oath.

And be it further Enacted, by the Authority aforesaid, That neither the said *John Thistlewood* or *Thomas Oldknow*, nor any other Person or Persons whom the said Commissioners, or any Two of them, shall appoint to make such Survey as aforesaid, shall be capable of acting as a Surveyor or Surveyors for the Purposes aforesaid, until he or they shall have taken and subscribed an Oath to the following Effect:

I A. B. do swear, that I will faithfully, impartially, and honestly, according to the best of my Skill and Judgment, make a true and distinct Survey of all the present Inclosures, open Fields, Meadows, common Fen, and other commonable Places within the Parishes of Billingborough and Birthorpe, in the County of Lincoln, or such Part thereof as I shall be directed and employed to survey, and reduce the same into Writing, and therein set forth the Number of Acres, Roods, and Perches belonging to each Proprietor in the said present Inclosures, open Fields, and Meadow Grounds; and also the Number of Acres, Roods, and Perches of the said common Fen, and other commonable Places in the Parishes of Billingborough and Birthorpe aforesaid; and that I will lay a true and just Survey of the same before the Commissioners appointed to put in Execution an Act of Parliament "for dividing and inclosing the open and common Fields, Meadows, and common Fen within the Parishes of Billingborough and Birthorpe, in the County of Lincoln, and for draining and improving the said Fen," pursuant to the Directions of the said Act.

So help me G O D.

Which Oath it shall and may be lawful for the said Commissioners, or any One of them, to administer, and he and they is and are hereby empowered and required to administer the same accordingly.

Allotments to
be made.

And be it further Enacted, by the Authority aforesaid, That the said Commissioners, or any Two of them, shall and they are hereby empowered and required, as soon as conveniently may be after the said Survey shall have been laid before them, to divide, set out, and allot the said Fields, Meadows, Fen, and other commonable Places, in the following Manner; that is to say, In the first Place they shall set out a Parcel or Parcels of Land in the said Fen; not less than Sixty Acres, nor more than One hundred Acres; and shall sell the same, in Lots of Ten Acres each, to the best Bidder or Bidders,

Bidders, at some One of their Meetings to be held in pursuance of this Act, of which publick Notice shall be given by the said Commissioners, or any Two of them, in the *Stamford* and *Cambridge* Weekly Papers at least Thirty Days before such Sale shall be made; and shall apply the Money arising by such Sale towards defraying the Expences of imbanking and draining the said Fen, and also for defraying the Tax or Taxes already laid, or hereafter to be laid on the said Fen, and other the commonable Places, by virtue of an Act of Parliament made in the Fifth Year of his present Majesty, intituled,

7 "An Act for draining and improving certain Low, Marsh, and Fen Lands lying between *Boston Haven* and *Bourn*, in the Parts of "*Kesteven* and *Holland*, in the County of *Lincoln*," and which shall become due and payable before the Award or Instrument herein after-mentioned shall be made and executed, and towards defraying the Charge of Thirty-five Pounds Sixteen Shillings and Ten Pence Halfpenny, lately incurred by the Inhabitants of *Billingborough* and *Birtherpe* aforesaid, in determining and settling the Boundaries between the said Fen and a Fen called *Quadrang Fen* adjoining thereto; and the Lands so sold shall be assigned and conveyed (as Freehold) in Fee unto the respective Purchasers thereof; and a Conveyance thereof made and executed by the said Commissioners, or any Two of them, shall be valid and effectual in Law: And in the next Place, the said Commissioners, or any Two of them, shall set out and allot unto and for the said Lord *Fortescue*, as Impro- priator of the said respective Parishes of *Billingborough* and *Birtherpe*, and the several other Persons interested in the great Tithes of the same Parishes respectively, and to the said *John Towers* and his Suc- cessors, Vicars of the said Parish of *Billingborough*, in Lieu of and as a Compensation for all the Tithes, both Great and Small, arising from the said Fields, Meadows, and Fen, and in due Proportion ac- cording to their respective Interests in such Tithes, Three or more

8 Parcels of Land in the said Fields, Meadows, and Fen, which, Quan- tity, Quality, and Situation considered, shall in the Judgment of the said Commissioners, or any Two of them, be equal in Value to Two Fifteenth Parts of the titheable Lands in the said Fields and Meadows, and to One Eighth Part of the said Fen, exclu- sive of the Part of the said Fen herein before directed to be sold to defray Expences as aforesaid; and shall also set out and allot unto and for the said *John Towers* and his Successors, Vicars of *Billing- borough* aforesaid, such other Parcel or Parcels of Land in the said Fields and Meadows, as shall in the Judgment of the said Commis- sioners, or any Two of them, be, Quantity, Quality, and Situation considered, equivalent and a proper Compensation for the said Vicar's Glebe Lands within the said Fields and Meadows, and the Right of Common therein belonging to the said Vicarage; and the said Com- missioners, or any Two of them, shall also set out and allot unto

and for the said Lord *Fortescue*, and the several other Persons, interested in the Great Tithes of the same Parishes respectively, and the said Vicar and his Successors, such other Parcels of Land in the said Fields and Meadows as shall in the Judgment of the said Commissioners, or any Two of them, be equal in Value to all the Tithes they are respectively intitled unto, within or in respect of the Homesteads and present Inclosures within the said respective Parishes; which last mentioned Parcels of Land shall be in Lieu of such Tithes, and shall be allotted to the Parties intitled thereto in due Proportion according to their respective Interests therein, and Land to the Value thereof shall be deducted respectively from the Allotments to be made to the Owners of such Homesteads and Inclosures as are now subject to the Payment of Tithes; and the said Commissioners, or any Two of them, shall afterwards set out and allot for and unto the said Lord *Fortescue*, as Lord of the several Manors of *Billingborough* and *Birtherpe* afore said, Seven Acres, and unto the said *Thomas Burton*, as Lord of the said Manor of *Buckminster Hall*, Three Acres of the said Fen, as a Compensation for their respective Rights to the Soil in the said Fen; and after selling such Lands as afore said, and making the Divisions and Allotments before mentioned, the said Commissioners, or any Two of them, shall set out and allot the Residue of the said Fields and Meadows unto and amongst the said Lord *Fortescue* and the several other Persons who at the Time of making such Division shall be intitled to Lands, Right of Common, or other Property therein, in Proportion to their several and respective Interests, proper Allowance being made for their Shares of the Allotments set out in Lieu of the Tithes of the Homesteads and present Inclosures; and shall also set out and allot the Residue of the said Fen in Manner following; that is to say, Two Fifth Parts thereof shall be set out and allotted in equal Shares (Quantity and Quality considered) to the Owner of each House and Toststead having Right of Common upon the said Fen; and the other Three Fifth Parts thereof shall be set out and allotted unto and amongst the several Persons having Right of Common as afore said, in Proportion to their Property in the said Parishes respectively, whether the same consists of Houses, ancient Inclosures, or Field or Meadow Land, according as the same shall be valued by the said Commissioners, or any Two of them.

Commissioners Power to exchange Allotments.

And be it further Enacted, That for the more convenient Situation and Disposition of the several Farms and Lands upon the said intended Division and Inclosure, it shall and may be lawful to and for the said Commissioners, or any Two of them, and they are hereby authorized and empowered to assign, allot, set out, and appoint any House, Barn, or other Building, or any Part or Parcel of ancient inclosed Land, or any Part or Parcel of the Lands so intended to be divided

vided and inclosed belonging to the said Vicar of *Billingborough* aforesaid, or to the Overseers or Trustees of Lands belonging to the Poor within that Parish, or to any other of the Proprietors of Lands within the said Parishes respectively, in Lieu of or in Exchange for any House, Barn, or Building, or of any other Lands within or adjoining to the said Parishes respectively, so as such Exchange or Exchanges be ascertained, specified, and declared in the Award herein after mentioned, and so as every such Exchange be made by and with the Consent and
 11 Approbation of the said Vicar and the said Overseers or Trustees of the Poor of *Billingborough* aforesaid, and of the said other Proprietors respectively interested therein, being Tenants in Fee simple, in Tail for Life, or in Right of their Wives; such Consent to be testified and declared by some Instrument or Writing under their Hands and Seals respectively, which shall be annexed to and inrolled with the Award; and all and every such Exchange and Exchanges so made shall be good, valid, and effectual in the Law to all Parties, and to all Intents and Purposes whatsoever.

Provided always, and be it further Enacted, That if any Proprietor shall be intitled to a small Allotment in the said Fen, and also to a small Allotment in the said Fields and Meadows for Common Right only, the said Commissioners, or any Two of them, shall and may and they are hereby impowered to exchange One of those small Allotments for Land to which some other Proprietor might be intitled, and allot in Lieu of such small Allotments Land to the Value of both in One Parcel only.

Commissioners Power to exchange small Allotments.

And whereas all Allotments to the said *Matthew Lord Fortescue* as Impropiator, and to the several other Persons interested in the Great Tithes respectively, and to the said *John Towers* as Vicar of the said Parish of *Billingborough*, are directed to be made out of the said Fields, Meadows, and commonable Grounds by this Act directed to be divided and inclosed :

12 **And whereas** it may happen that some of the Proprietors and Owners of inclosed Lands and Grounds in the Parishes of *Billingborough* and *Birthorpe* aforesaid may have no Land or Property in the said Fields, Meadows, and commonable Grounds, or so small a Share or Part as not to be adequate in Value to the Great and Small Tithes arising from and out of their old inclosed Lands; **Be it Enacted,** by the Authority aforesaid, That then and in either of those Cases the Lands and Grounds of such Owners and Proprietors shall still continue liable to the Payment of Tithes, both Great and Small, in the same Manner as before the Passing of this Act, or as they would have been liable to in case this Act had not been made, unless the said Owners or Proprietors of Lands in the old Inclosures should rather
 chuse

Old Inclosures subject to the Payment of Tithes.

chuse to assign so much Lands out of their old Inclosures as shall, in the Judgment of the said Commissioners, or any Two of them, be thought a full Equivalent for the Tirhes of their Lands in the said old Inclosures, and shall be specified in the Award herein directed to be made.

Commission-
ers not to give
any undue
Preference.

Provided always, and be it further Enacted, That nothing in this Act contained shall impower the said Commissioners, or any of them, to give any undue Preference to any of the Parties interested in the said intended Division and Inclosure in respect to their Shares or Allotments, but that the said Commissioners in making such Allotments shall have due Regard to the Quality as well as Quantity of the Lands, and the Tirhes thereof, and also the Right of Common and other Property belonging to each Person interested, and the Quality, Quantity, and Situation of the Lands and Grounds to be allotted in Lieu thereof.

Commission-
ers to deter-
mine Differ-
ences.

Provided also, That if any Difference or Dispute shall arise between the Parties interested in the said Division and Inclosure, or any of them, touching or concerning their respective Shares, Rights, and Interests, or their respective Shares and Proportions which they or any of them ought to have upon such Division and Inclosure, it shall be lawful to and for the said Commissioners, or any Two of them, and they are hereby authorized and required, by Examination of Witnesses upon Oath (which Oath the said Commissioners, or any Two of them, is and are hereby impowered to administer) and upon other proper and sufficient Enquiry, Evidence, and Satisfaction, to hear and determine the same; and such Determination shall be binding and conclusive to all Parties.

For making
Bridges, set-
ting out
Roads, &c.

And be it further Enacted, That the said Commissioners, or any Two of them, shall and may and they are hereby authorized and required to erect a sufficient Bridge for the Passage of Cattle and Carriages over the Ford at *Piper Dam*, where the Highway leads from the said Parish of *Birthorpe* to the said Parish of *Billingborough*, or as near thereto as conveniently may be, the same to be made of such Materials, and of such Height and other Dimensions as to the said Commissioners, or any Two of them, shall seem meet; and shall and may set out and appoint such publick and private Roads or Ways, and give such Directions for making and erecting such Fences, Gates, Stiles, Banks, Sluices, and other Bridges, Ditches, Drains, and Engines for draining, as they shall think convenient, in, over, and upon the Inclosures to be made by virtue of this Act, so that all such publick Roads shall be Sixty Feet broad at the least between the Ditches or other Fences; and the said private Roads shall be of such a Breadth as the said Commissioners, or any Two of them, shall order and direct; and such publick

publick Roads shall at all Times thereafter be repaired and kept in Repair in such Manner as other publick Highways are by Law directed to be repaired: And after making the Roads and Ways so to be set out and appointed, it shall not be lawful for any Person or Persons to use any other Roads or Ways, either publick or private, over or through the said new Inclosures, on Foot, or with Horses, Cattle, or Carriages; and that all the former Roads and Ways which shall not be set out and appointed as the said Roads and Ways through the said intended Inclosures, shall be deemed Part of the Lands to be inclosed, and shall be divided and allotted accordingly as Part of such Lands; and that all the private Ways, Fences, Gates, Stiles, Banks, Sluices, Bridges, Ditches, Drains, and Engines for draining, so to be set out, appointed, and erected as aforesaid, shall be made and provided, and at all Times thereafter repaired, cleansed, maintained, and kept in
 15 Repair, by such Person or Persons and in such Manner as the said Commissioners, or any Two of them, shall by their Award or Instrument herein after-mentioned order, direct, or appoint.

Commissioners
 are not to give
 any advice
 Preference

And be it further Enacted, That all the Allotments which shall be made to the said Lord *Fortescue* as Impropiator as aforesaid, and to the said *John Towers* Vicar as aforesaid, in the said open Fields and Meadows, in pursuance of this Act, shall be inclosed and fenced with a double Ring Fence and planted with Quick; and that the Allotments which shall be made to the said Lord *Fortescue* as Impropiator as aforesaid, and to the said Vicar and his Successors as aforesaid, in the said Pen, shall be inclosed and fenced with a sufficient Ring Fence, in such Manner as the said Commissioners, or any Two of them, shall direct and appoint, at the Expence of the Proprietors of the other Allotments; which Expence shall be defrayed by such Proprietors in Proportion to their respective Properties in the said Inclosures, in such Manner as shall be ascertained by the said Commissioners, or any Two of them; and that such Fences shall for ever thereafter be maintained by the respective Occupiers of the said Allotments set out as aforesaid in Lieu of Tithes or Glebe.

Allotments to
 the Impropi-
 ator and Vi-
 car to be
 fenced by the
 other Propri-
 etors.

Provided always, That none of the Proprietors of the other Allotments shall be subject or liable to the Expence of inclosing and fencing the said Allotments so to be made to the said Lord *Fortescue* as Impropiator as aforesaid, or to the said Vicar as aforesaid, in respect of their Property in such Lands or old Inclosures as are now Tithe-free.

And be it further Enacted, That each and every of the Proprietors of the Inclosures to be made by virtue of this Act shall have full Liberty, for the Term of Ten Years only from the Time of the Execution of the Award or Instrument herein after-mentioned, to
 16 erect,

For setting up
 Gates.

erect, set up, and continue any Gate or Gates across any Part of the said Roads (except the Turnpike Road leading from *Hacconby Way* Post to *Donnington High Bridge*) against his or their own Lands, for keeping out Sheep and Cattle, and to prevent the destroying any Banks, Wood Plants, Quicksets, or Fences which shall be made or planted for inclosing or fencing any Part or Parcel of the said Lands or Grounds to be inclosed, so as such Gate or Gates shall not prevent any Person or Persons, with or without Horses, Cattle, or Carriages, to pass and repass through the said Roads.

Times when
Fences are
to be made
up.

And be it further Enacted, That all the Ditches, Banks, Drains, Fences, Bridges, Gates, Stiles, and Watercourses, or any Engine or Engines to be made, built, erected, amended, altered, or repaired, for inclosing, dividing, draining, and separating the Lands to be inclosed by virtue of this Act, shall be made, built, and finished within Eighteen Calendar Months, or so soon after as conveniently may be, from the Time of signing and sealing the Award herein after-mentioned; and shall at all Times thereafter be repaired, scoured, and maintained by and at the Expence of such Person and Persons respectively to whom the Lands hereby intended to be divided and inclosed shall be allotted, and in such Manner as the said Commissioners, or any Two of 17 them, shall by their said Award order, direct, and appoint; and for the better preserving the young Hedges, it shall and may be lawful to and for the respective Persons to whom any Allotment or Allotments shall be so made, to set down and place Posts and Rails, or to make any other Kind of Fence (Ditches excepted) on the Outside of the Boundaries of their respective Allotments, not exceeding the Distance of Two Feet from such Boundaries, and at any Time or Times before the End of the said Term to repair the same where necessary, and to move, take, and carry away such Posts and Rails or other Fencing, and convert the same to their respective Uses.

Convenient
Gaps to be
left in the
Fences.

Provided always, That convenient Openings shall be left in the said Fences and Inclosures for the Space of Twelve Calendar Months next after the Execution of the said Award or Instrument, for the Passage of Cattle and Carriages in, by, and through the same, unless the several Parties interested therein shall agree that the same shall be sooner made up and inclosed.

The Time
for accepting
Allotments.

And be it further Enacted, That all and every Person and Persons to whom any Allotment or Allotments shall be made by virtue of this Act, shall and they are hereby required to accept his, her, and their respective Allotments and Shares within the Space of Three Calendar Months next after the Execution of the Award or Instrument herein after-mentioned, and Notice being given some *Sunday* immediately after divine Service in the Parish Church of *Billingsborough* aforesaid, and

18 and also in Writing fixed on the great or common Door of the said Church, signed by the said Commissioners, or any Two of them; which Notice the said Commissioners, or any Two of them, are hereby required to cause to be so published and given; and in case any Person or Persons shall neglect or refuse to accept his, her, or their Share or Allotment, Shares or Allotments, within the Time before-mentioned, such Person or Persons so neglecting or refusing shall be totally excluded from any Estate, Interest, Tithes, Right of Common, or other Property whatsoever, in, over, and upon any of the Lands assigned or allotted to any other Person or Persons by virtue of this Act.

And be it further Enacted, That the Guardians, ^{Impowering} Trustees, Committees, or Attornies of, or any Person or Persons acting as Guardians, Trustees, Committees, or Attornies for any Person ^{Guardians,} or Persons being Infants, Lunaticks, Ideots, Femmes-covert, or beyond the Seas, or otherwise incapable by Law to accept any such Share or Allotment, Shares or Allotments, shall be and are hereby enabled and required to accept thereof for the Use of such Person or Persons; and also that any Person or Persons intitled to any Allotment or Allotments as Tenant or Tenants for Life or Lives, shall be and is and are hereby respectively enabled to take and accept of any such Allotment or Allotments; and also that any Person or Persons intitled to 19 any Allotment or Allotments in Remainder or Expectancy upon any precedent particular Estate, upon Neglect or Refusal for the Space aforesaid of any Tenant or Tenants in Possession, or any Person or Persons intitled to such precedent particular Estate, shall be and is and are hereby respectively enabled to accept of any such Allotment or Allotments in Lieu and in Stead of any such Tenant or Person so intitled, and neglecting or refusing as aforesaid; and every such Acceptance respectively shall be and is hereby declared to be valid and effectual; any Thing herein contained to the contrary notwithstanding.

Provided always, That the Non-claim or Non-acceptance of any ^{Non-accept-} Guardian, Husband, Trustee, Committee, or Attorney, or of any Per- ^{ance of} son or Persons acting as Guardian, Trustee, Committee, or Attorney, ^{Guardians,} shall not exclude or prejudice the Claim or Acceptance of any Infant, ^{&c. not to} Lunatick, Feme-covert, Person beyond the Seas, or other Person under such Disability or Incapacity as aforesaid, who shall claim or accept his, her, or their Share or Allotment, Shares or Allotments, ^{bar Infants,} within Twelve Calendar Months next after such Disability or Incapacity removed; or of any Person or Persons intitled as Heir, or in ^{&c.} Remainder, after the Death of any Person dying under such Disability or Incapacity, who shall claim or accept within Twelve Calendar Months after his, her, or their Right or Interest shall have descended, vested, or accrued.

And

For getting
Materials for
mending the
Roads, and
for digging
Clay, &c.

And be it further Enacted, That it shall and may be lawful to and for the said Commissioners, or any Two of them, and they are hereby authorized and required after they shall have made the said Allotments in Lieu of Glebe and Tithes aforesaid within the said Parish of *Billingborough*, and also the Allotment in Lieu of Tithes within the said Parish of *Birthorpe*, to set out and appoint One or more Piece or Pieces of Ground within the said Parish of *Billingborough*, not containing more than Four Acres in the Whole (Part of the Residue of the Lands hereby intended to be inclosed) in such convenient Place or Places near the said Town of *Billingborough*, as the said Commissioners, or any Two of them, shall think proper for the getting of Stone and Gravel for repairing the publick Roads and Ways to be set out by virtue of this Act within the said Parish of *Billingborough*; and shall also set out and appoint One other Piece or Pieces of Ground within the said Parish of *Billingborough*, not containing more than Two Acres in the Whole (Part also of the Residue of the Lands hereby intended to be inclosed) in such other convenient Place or Places near the said Town of *Billingborough*, as the said Commissioners, or any Two of them, shall think proper for the getting and digging of Clay for the Use of the Inhabitants of the said Parish of *Billingborough*; and shall also set out and appoint 21 One or more Piece or Pieces of Ground with the said Parish of *Birthorpe*, not containing more than Three Acres in the Whole (Part of the Residue of the Lands hereby also intended to be inclosed) in such convenient Place or Places near the said Town of *Birthorpe*, as the said Commissioners, or any Two of them, shall think proper for the getting of Stone and Gravel for repairing the publick Roads and Ways to be set out by virtue of this Act within the Parish of *Birthorpe* aforesaid, and for the Use of the Inhabitants of the said Parish of *Birthorpe*; and that the Herbage growing and renewing in and upon the said several Pieces of Ground shall be and are hereby respectively vested in the respective Surveyors of the Highways of the Parishes of *Billingborough* and *Birthorpe* aforesaid for the Time being, in Trust that the said Surveyors respectively shall let and set the same for the best and most Rents they can respectively get for the same, and do apply the Rents and Profits thereof in repairing the several Highways within the said Parishes respectively, and do severally account to the respective Inhabitants of the said Parishes touching the Application of the said Rents and Profits annually in *Easter* Week at the Vestries then held at the most usual Place or Places for doing Parish Business within and for the said respective Parishes. 22

For disposing
of Trees and
Fences.

And be it further Enacted, That all Fences, Trees, Underwoods, Hedges, Bushes, and Shrubs, growing or being upon any of the Lands or Grounds allotted by virtue of this Act, shall be valued by the said Commissioners, or any Two of them; and such Consideration

deration shall be paid for the same to the present respective Owner and Owners of the said Land or Ground whereon the same shall stand or grow as the said Commissioners, or any Two of them, shall think reasonable by such Person or Persons to whom the same Land or Ground shall be allotted; or it shall and may be lawful to and for such former Owner and Owners thereof respectively, if he, she, or they shall not think proper to accept such Consideration as aforesaid, to enter into and upon the Lands and Grounds upon which such Fences, Trees, Underwoods, Hedges, Bushes, or Shrubs shall be standing or being, and to fell or cut down the same, and with Horses, Carts, and Carriages to take and carry away the same at his and their Wills and Pleasures, and to and for his and their respective Use and Benefit, within such Time after such Allotment made as the said Commissioners, or any Two of them, shall appoint for that Purpose, unless any such Hedges shall be assigned by the said Commissioners, or any Two of them, as the Boundary Fence to or for any Allotment or Allotments to be made by virtue of this Act, in which Case such Hedges shall be left in such State as the said Commissioners, or any Two of them, shall in their Award order and direct for the Benefit of the Proprietors of such Allotments respectively; and the Owners of such Hedges shall then accept from the said Proprietors such Allowance or Consideration for the same as the said Commissioners, or any Two of them, shall direct and specify in their said Award.

Provided always, and be it further Enacted, That no Person or Persons whatsoever shall, from the Time of passing this Act until the said Commissioners shall have executed their said Award, cut down, take, or carry away any Hedges, Bushes, or Shrubs, growing or being in or upon the said open Fields and Meadows, or any Part thereof, without the Licence and Consent of the said Commissioners, or any Two of them, first had and obtained for that Purpose.

No Person to cut down or carry away Hedges, &c. without Leave of the Commissioners.

And for preventing Differences and Disputes relating to the said Divisions and Inclosures to be made in pursuance of this Act, **Be it further Enacted,** That as soon as conveniently may be after the said Commissioners, or any Two of them, shall have completed the Partitions and Allotments of the Lands to be divided and inclosed in pursuance of this Act, the said Commissioners, or any Two of them, shall form and draw up, or cause to be formed and drawn up, an Award or Instrument in Writing, which shall express and contain the Quantity in Statute-Measure of the Acres, Roods, and Perches specifically contained in the said open Fields, meadow Grounds, and common Fen so intended to be divided and inclosed; and also the specific Quantity of each and every Part and Parcel of the same that shall be assigned and allotted to every Proprietor respectively; and shall also express and contain a Description of the Situations, Buttals, and

An Award to be made.

Boundaries of the said Parcels and Allotments respectively set out by virtue of this Act, and proper Orders and Directions for imbanking, draining, fencing, and mounding the same, and for keeping in Repair the Banks, Drains, Engines, Fences, and Mounds, and making and laying out proper Roads, Ways, and Passages in and through the Lands hereby intended to be divided and inclosed; and shall also express and contain such Orders, Regulations, and Determinations with respect to the raising Money to pay the Person or Persons who shall be appointed to order and manage the Engine or Engines, and other Works to be done in pursuance of this Act, and to defray the annual Expences of keeping the same in good Condition, and other necessary Expences; and such other Orders, Regulations, and Determinations to be observed and followed by the said Proprietors from the Time of executing the said Award, as the said Commissioners, or any Two of them, shall think necessary and proper to be inserted therein, conformable to the true Intent and Meaning of this Act; which said Award or Instrument shall be fairly ingrossed and written on Parchment, and signed and sealed by the said Commissioners, or any Two of them, and shall within the Space of Six Calendar Months next after the same shall be so signed and sealed, be inrolled with the Clerk of the Peace for the Division of *Kesteven*, in the said County of *Lincoln*, to the end Recourse may be the more easily had to the same; and the said Award or Instrument shall be binding and conclusive unto and upon all the Parties interested in the said Division and Inclosure, and a Copy thereof attested by the Officer with whom the same shall be inrolled, shall from time to time and at all Times thereafter be admitted and allowed in all Courts whatsoever as legal Evidence thereof; which said Copy such Officer is hereby ordered and required to make and deliver to any Person or Persons requiring the same, he, she, or they paying for such Copy after the Rate of Two Pence *per* Sheet, reckoning One hundred Words to each Sheet, and no more; and any Person or Persons interested therein shall have Liberty to inspect and peruse the same, paying to such Officer for every such Inspection or Perusal One Shilling, and no more.

Allotments
to be made
in lieu of former
Property.

And be it further Enacted, That the several Lands and Grounds to be divided, assigned, set out, allotted, and appointed unto and for the several Persons who by virtue of this Act shall be intitled to the same, shall be and are hereby vested in them respectively, in full Bar of and Satisfaction and Compensation for his, her, and their several Pieces and Parcels of Land and Ground which he, she, and they respectively held before the Passing of this Act, or immediately before the said Allotments were made; and also in full Bar, Satisfaction, and Compensation of and for all Right of Common and other Right whatsoever in, over, and upon the said open common Fields, meadow Grounds,

Grounds, and common Fen ; and that from and immediately after the
 Execution of the said Award or Instrument, of such Tenor and Purport
 as afore mentioned, or so soon thereafter as the said Commissioners,
 or any Two of them, shall by the said Award or Instrument appoint,
 all Right of Common belonging to or claimed by a and every the
 Owners, Proprietors, or Occupiers of Lands, Tenements, or other He-
 reditaments, and of all other Persons whatsoever, in, ever, and upon
 27 all the said Lands and Grounds intended to be divided and inclosed as
 before said, and every Part thereof, and also all Tithes, both Great and
 Small, and other Payments whatsoever (Surplice Fees, *Easter Offer-*
 ings, and Mortuaries, which shall remain due and payable in the same
 13 Manner they would have done in case this Act had not been made,
 only excepted) shall cease, determine, and be for ever extinguished;
 10 and that all and every Lessee or Lessees, Tenant or Tenants at Rack-
 5 rent subsisting of all or any Part or Parts of the said Fields, meadow
 3 Grounds, and common Fen, by virtue of any Lease or Leases or other
 10 Agreements at Rack-rent for any Time or Term therein, shall, upon
 10 such Allotments and Divisions being made, and such Award or Instru-
 28 ment being executed as afore said, be at Liberty to hold and enjoy
 5 such Lands and Grounds as shall be allotted in Lieu of his, her, or
 10 their former Holdings, for and during such Time and Term of Years
 5 as he, she, or they then had in such former Holdings then to come
 5 and unexpired, upon paying such further advanced Rent to the Lessors
 5 or Landlords thereof as the said Commissioners, or any Two of them,
 5 shall think reasonable, and shall in and by the said Award or Instru-
 5 ment direct or appoint; and which said advanced Rent shall be paid
 5 at such Times and in such Manner to the respective Lessor or Lessors,
 28 Landlord or Landlords, as the said original Rent was agreed or pro-
 5 vided to be paid; and such Lessor or Lessors, Landlord or Landlords,
 5 shall have such Powers and Remedies for the recovering and obtaining
 5 such additional Rent, together with the original Rents, as he, she,
 5 or they would have had, or was or were intitled to have had, for the
 5 obtaining and recovering the said original Rent had this Act not been
 made; and in case the said Lessee or Lessees, or other Tenant or Te-
 nants, shall not, within Six Calendar Months next after the making
 and executing such Award or Instrument as afore said, give Notice in
 Writing of his, her, or their Intentions of holding or enjoying the
 said Lands, Grounds, and Common Right by him, her, or them respec-
 tively rented, and thereby agree to pay for the same such Rent or Rents
 as the said Commissioners, or any Two of them, shall have appointed
 to be paid in and by the said Award or Instrument to or for the Lessor
 or Lessors, Landlord or Landlords thereof, to be left at his, her, or
 their last or most usual Place or Places of Abode, then and in such
 Case the said Lease or Leases, Agreement or Agreements, shall, at the
 End of Six Calendar Months next after such Award shall be made as
 afore said,

How Leases
 at Rack rent
 may be held.

aforesaid, be absolutely void to all Intents and Purposes; any Thing herein contained to the contrary thereof in any-wise notwithstanding. 29

For making
Satisfaction
to Tenants
for Losses the
first Summer.

And be it further Enacted, That all Loss and Disadvantage which shall be sustained in consequence of the said Division and Inclosure by any Tenant or Tenants, Occupier or Occupiers of any of the Lands to be divided and inclosed by virtue of this Act in the first Summer after making such Allotments, shall be rated and assessed by the said Commissioners, or any Two of them; and such Recompence and Satisfaction shall be made, in respect of such Loss and Disadvantage, by such Person who shall in the said Summer be benefited by the said Division and Inclosure, as the said Commissioners, or any Two of them, shall by Writing under their Hands direct and appoint; and in case of Non-payment thereof, such Recompence and Satisfaction shall and may, by the Authority of any Warrant or Warrants under the Hands and Seals of the said Commissioners, or any Two of them, be levied by any Person or Persons whomsoever, by Distress and Sale of the Goods and Chattels of the Person or Persons so appointed to make such Recompence and Satisfaction; which Warrants the said Commissioners, or any Two of them, are hereby from time to time impowered to grant.

Fallow Fields
to be
ploughed.

And be it further Enacted, That the Tillage Parts of such of the said Fields as shall happen to be fallow the Year wherein such Divisions and Allotments shall be made as aforesaid shall be ploughed 30 in a Husbandlike Manner Three several Times in that Year, betwixt the First Day of *March* and the First Day of *October*; and that every Proprietor or Proprietors, Occupier or Occupiers, who shall neglect or refuse so to plough his, her, or their Parts of the said Fields in such Manner as aforesaid, shall forfeit and pay to the new Proprietors respectively, by virtue of this Act, of such Parts respectively so not ploughed as aforesaid, Ten Shillings an Acre for every Tilt or Ploughing omitted, and so in Proportion for every less Quantity than an Acre, to be recovered by Application to the General or Quarter Sessions of the Peace for the Division of *Kesteven*, in the County of *Lincoln*, in a summary Way; which Matter such Court of Quarter Sessions are hereby authorized and impowered to hear and finally determine, and to cause the Money that shall appear to be due to any Person or Persons complaining on the Account aforesaid, to be levied by Distress and Sale of the Offender or Offenders Goods and Chattels by Warrant or Order of the same Court, with reasonable Costs; and also that if any of the said Proprietors shall not have as much Tillage Land allotted to him, her, or them in that Field by virtue of this Act as they shall so plough therein as aforesaid, they shall have and receive respectively from the Proprietors of the new Allotments such Allowance and Satisfaction for such their Ploughings as aforesaid, and for

31 for folding of Sheep in that Field, as the said Commissioners, or any Two of them, shall think reasonable and direct; and that such Allowance and Satisfaction shall be recovered as aforesaid with Costs as aforesaid.

And be it further Enacted, That nothing in this Act contained shall extend, or be construed, adjudged, or taken to extend, to revoke, make void, alter, or annul any Will or Wills, Settlement or Settlements, Mortgage or Mortgages, or to prejudice any Person or Persons having any Right or Claim of Dower, Jointure, Portion, Debt, Rent, Out Rent, Fee-farm Rent, Incumbrance, or other Demand, out of, upon, or affecting any Lands or Grounds hereby intended to be divided and inclosed, or out of, upon, or affecting any Messuages, Tenements, Lands, or Grounds that shall be exchanged by virtue of this Act, or any Part or Parts thereof respectively (other than and except such Lease or Leases, Agreement or Agreements as aforesaid) but that each and every Proprietor shall stand and be seised of and in the Messuages, Tenements, Lands, and Grounds to be received in Exchange for or assigned or allotted to him, her, or them as aforesaid, to such and the same Use and Uses, and for such and the same Estate and Estates and Interests, and subject to such and the same Wills, Powers, Provisoes, Limitations, Trusts, Charges, Rents, Out Rents, Fee-farm Rents, Mortgages, Incumbrances, and Demands (other than and except such Lease or Leases or Agreements as aforesaid) as he, she, or they was or were respectively seised of and in his, her, or their several Messuages, Tenements, Lands, Grounds, and Common Rights, before the Making of such Division, Allotments, and Exchanges respectively, and in such Manner as he, she, or they would have been, in case this Act had not been made; any Thing herein contained to the contrary thereof notwithstanding.

Act not to prejudice any Will, &c.

And be it further Enacted, That the Lands which shall be allotted, and the Messuages, Tenements, and Lands to be exchanged by virtue of this Act, in Lieu or in Respect of any Lands, Messuages, or Tenements which before such Division or Exchanges respectively were Leasehold, shall, from and for ever after the Execution of the said Award or Instrument, be deemed to be Leasehold, though the same were before Freehold, and shall be held for the same Estates, Terms of Years, and Interests, and at and for the same yearly and other Rents and Heriots, and subject to and under the same Provisoes, Conditions, and Agreements (except any Right of Common upon the Lands hereby intended to be divided and inclosed) as the Messuages, Tenements, and Lands granted in and by the said Leases respectively are thereby respectively holden; and that the Lands, Messuages, and Tenements which were Leasehold, and which shall be allotted or exchanged by

Freehold Lands allotted in Lieu of Leasehold Lands to be deemed Leasehold.

virtue of this Act in Lieu or in Respect of any Lands, Messuages, or Tenements, which were Freehold, shall from and for ever after the Execution of such Award or Instrument be deemed to be Freehold, and held as such, though the same were before Leasehold. 33

Commissioners to give Notice of Meetings.

And be it further Enacted, That the said Commissioners, or any Two of them, shall and they are hereby required to give public Notice in the Parish Church of *Billingborough* aforesaid, on some *Sunday* after Divine Service, of the Time and Place of their first and every other Meeting for the executing the Powers hereby vested in them, at least Five Days before such Meeting (Meetings by Adjournment only excepted).

For vesting the Property of the Works in the Commissioners, &c.

And be it further Enacted, That all the Banks, Mills, Engines, and other Works already made or erected, or which shall at any Time hereafter be making or erecting, or made or erected, supported or maintained, for answering any of the Purposes of this Act, and the Right and Property to and in the same, and the Materials of which the same shall consist, shall be and are hereby vested in the said Commissioners until the Execution of the said Award or Instrument, and from thenceforth in the Commissioners for putting in Execution the said Act "for draining and improving certain Low, Marsh, and Fen Lands lying between *Boston Haven* and *Bourn*, in the Parts of *Kesteven* and *Holland*, in the County of *Lincoln*;" and that the said respective Commissioners, or any Two of them, are hereby authorized and impowered to bring or cause to be brought any Action or Actions in their own Names, or in the Name or Names of their Clerk or Clerks for the Time being, or to prefer and order and direct the preferring of Indictments or other Prosecutions against any Person or Persons who shall dig up, break, pull down, steal, take, carry away, destroy, spoil, or injure any of them, or any Part thereof, or any of the Materials of which the same shall be made, built, or consist. 34

When Award executed Commissioners Power to cease, and Act to be executed by Commissioners for Drainage, &c.

And be it further Enacted, That upon and immediately after the executing of the said Award by the said Commissioners as aforesaid, all and every the Appointments of the said Commissioners and their Successors, and the Powers by this Act granted to and vested in them, or any or either of them, of any Nature or Kind whatsoever touching the Execution of this Act, or any Part thereof, shall cease and absolutely determine; any Thing herein contained to the contrary thereof in any-wise notwithstanding: And that from thenceforth the Commissioners acting by virtue of the said Act "for draining and improving certain Low, Marsh, and Fen Lands lying between *Boston Haven* and *Bourn*, in the Parts of *Kesteven* and *Holland*, in the County of *Lincoln*," shall be Commissioners to put this Act in Execution for the Purpose of imbanking, draining, and preserving

10 serving the said common Fen, and shall have and are hereby vested
 35 with such and the same Powers and Authorities in all Respects, and
 to all Intents, Constructions, and Purposes, as were herein before given
 to and vested in the said Commissioners acting under this Act and
 their Successors.

And for continuing a sufficient Number of Commissioners to put
 this Act in Execution, **Be it further Enacted**, That when any of
 the said Commissioners herein appointed shall happen to die or re-
 fuse to act in the Execution hereof, the surviving or other Commis-
 sioner or Commissioners shall cause publick Notice to be given in
 the Parish Church of *Billingborough* aforesaid, on some *Sunday* after
 Divine Service, that the said Proprietors of Lands within the said Pa-
 rishes of *Billingborough* and *Birthorpe*, or their Deputies, appointed
 by Writing under their Hands, do meet at a Vestry in the said Parish
 of *Billingborough*, to be mentioned in the said Notice, to be held
 on the *Friday* next following, then and there to make Choice of
 One or more other disinterested Person or Persons to be a Commis-
 sioner or Commissioners in the Place or Stead of such deceased Com-
 missioner or Commissioners, or such as shall have refused to Act, and
 so from time to time so often as the said Commissioners hereby ap-
 pointed or hereafter to be chosen as aforesaid shall die, or refuse to
 act as aforesaid; and such new Commissioner or Commissioners as
 36 shall so from time to time be chosen by the Majority of such
 Proprietors as aforesaid, or their Deputies, appointed by Writing
 under their Hands and Seals present at such Vestry, and appointed
 by Writing under the respective Hands of such Majority, shall have
 the like Powers and Authorities for putting this Act in Execution
 as are hereby vested in the Commissioners hereby appointed.

Commission-
 ers to be ap-
 pointed upon
 Death or Re-
 fusal.

And be it further Enacted, That it shall and may be lawful to
 and for the Husbands, Guardians, Trustees, Committees, or Attor-
 nies of, or Persons acting as Guardians, Trustees, Committees, or At-
 tornies for, any of the said Owners and Proprietors being under Cover-
 ture, Minors, Lunaticks, or beyond the Seas, or otherwise incapable
 to act for themselves, and to and for every of them for the Time
 being, and to and for any of the said Owners and Proprietors being
 Tenants in Tail or for Life only, and to and for every of them re-
 spectively for the Time being (other than the said Vicar) by and with
 the Consent of the said Commissioners, or any Two of them, in
 Writing under their Hands and Seals, from time to time to charge the
 Lands and Grounds which shall be assigned and allotted to him, her,
 or them respectively by virtue of this Act with any Sum or Sums of
 Money for defraying the Charges and Expences of passing this Act,
 and for making the said Survey, and of the said Commissioners, and
 37 all other necessary Costs and Expences about and concerning the
 Premises,

Tenants for
 Life, Trus-
 tees, &c. may
 charge Lands
 with Money
 borrowed to
 inclose.

Premises, not exceeding Forty Shillings for every Acre so to be allotted; and for securing the Repayment of such Sum and Sums of Money, with Interest, to grant, mortgage, lease, or demise, or otherwise subject the said Lands and Grounds, unto such Person or Persons as shall advance and lend such Sum and Sums of Money respectively for any Term or Number of Years, so as every such Grant, Mortgage, or Demise be made with a Proviso or Condition to cease and be void, or with an express Trust to be surrendered, when such Sum or Sums of Money thereby to be secured, with the Interest thereof, shall be fully paid and satisfied; and so as every such Grant, Mortgage, or Demise to be made by any Tenant for Life or Tenant in Tail contains a Proviso, that the Person intitled in Remainder or Reversion shall not be liable upon his or her becoming possessed of the Premises to the Payment of any further or larger Arrear of Interest than for One Year preceding the Time that the Title to such Possession shall have commenced; or it shall and may be lawful to and for the said Commissioners, or any Two of them, by any Deed or Deeds of Appointment, or by such other Deed or Deeds, Writing or Writings, as shall be adjudged necessary under their Hands and Seals, to be attested by Two or more credible Witnesses, to charge and subject the Lands and Grounds which shall by virtue of this Act be assigned and allotted to such of the said Owners and Proprietors, being Tenants in Tail or for Life only, who shall respectively pay and discharge their proportionable Part of the Charges and Expences aforesaid, with any Sum and Sums of Money, not exceeding Forty Shillings for every Acre, with the like Interest for the same as aforesaid; which Sum and Sums of Money, so to be charged as aforesaid, shall be payable within One Year next after the Decease of every such Tenant in Tail or for Life only respectively, with the Interest thereof, to be computed from his, her, or their respective Decease, unto such Person or Persons as such respective Tenants in Tail or for Life shall respectively by any Deed or Will, duly executed and attested, direct or appoint, and in Default thereof, to his, her, or their respective Executors or Administrators; and every such Grant, Mortgage, Lease, Appointment, or Demise of, and Charge by Will as aforesaid, shall be good, valid, and effectual in the Law for the Purposes thereby intended, notwithstanding the Want of Title in the said Husbands, Guardians, Trustees, Committees, or Attornies, or Persons acting as Guardians, Trustees, Committees, or Attornies, or in the said Tenants in Tail or for Life, and notwithstanding any Settlement, Will, Trust, Use, Remainder, Limitations, or other Incumbrances of or concerning the same Lands, Grounds, and Premises, or any Part or Parts thereof, then in being or capable of taking Effect to the contrary notwithstanding.

And

And be it further Enacted, That in case any Person or Persons shall refuse or neglect to inclose, hedge, ditch, drain, or fence his, her, or their Share or Allotment, Shares or Allotments, within such Time as the said Commissioners, or any Two of them, shall in their Award aforesaid order, direct, and appoint, in such Case it shall and may be lawful to and for the said Commissioners, or any Two of them, to inclose, hedge, ditch, and fence such Person or Persons Share or Shares, Allotment or Allotments, who shall refuse or neglect as aforesaid, and to raise and pay the Expences thereof in Manner herein after directed.

Upon Refusal
of Proprietors
Commission-
ers may in-
close.

And be it further Enacted, That the Charges and Expences of passing this Act, and all the Costs and Charges attending the same, with lawful Interest to the Persons who have subscribed for obtaining this Act for all such Sum and Sums of Money which they have so subscribed from the Time of their having advanced the same, and also for defraying the Tax or Taxes already laid or hereafter to be laid on the said Fen by virtue of the said recited Act, that shall become due and payable before the said Award shall be made and executed, and the Costs and Charges of surveying, admeasuring, planning, valuing, dividing, and allotting the Lands and Grounds so intended to be divided and allotted as aforesaid, and of imbanking and draining the said Fen, and of the preparing and inrolling the said Award or Instrument, and also the Payment of the said Sum of Thirty five Pounds Sixteen Shillings and Ten Pence Half-penny, which has been lately incurred by the Inhabitants of *Billingborough* and *Birthorpe* aforesaid in settling and determining the Boundaries of the said Fen, and all other the necessary Charges and Expences of the said Commissioners, and other necessary Expences about and concerning the said Premises (except such Part of the Costs, Charges, and Expences aforesaid as shall be paid and defrayed by and out of the Money to be raised by Sale of the Lands by this Act ordered to be sold for that Purpose) shall be borne, defrayed, and paid by all the Proprietors of Land, having Right of Common in the said Fields, Meadows, Fen, and other commonable Places (except the said Lord *Fortescue* as Impropiator as aforesaid, and the said Vicar and his Successors) according to the Value of the Lands and Grounds each Person shall have allotted to him, her, or them by virtue of this Act, to be settled, adjusted, and determined by the said Commissioners, or any Two of them: And in case any of the Persons aforesaid shall refuse or neglect to pay his, her, or their Share or Proportion, Shares or Proportions of such Charges or Expences, or the Charges and Expences of inclosing, hedging, ditching, or fencing his, her, or their Shares and Allotments within the Time to be limited by the said Commissioners, or any Two of them, to such Person or Persons as they, or any Two of them, shall appoint to receive the same, then the said Commissioners,

For defraying
the Charges
of the Act.

missioners, or any Two of them, shall and may, by Warrant under their Hands and Seals directed to any Person whomsoever, cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons so neglecting or refusing to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the Costs and Charges of taking and making such Distress or Distresses, and selling the same; and in case no such Distress or Distresses can be had and taken as aforesaid, it shall and may be lawful to and for the said Commissioners, or any Two of them, or any other Person to be authorized by them, to enter into and upon the Premises so to be allotted to such Person or Persons refusing or neglecting to pay as aforesaid, and to take and receive the Rents and Profits thereof respectively until thereby or therewith the Share or Shares, Proportion or Proportions of the said Costs and Charges so to be ordered and directed by the said Commissioners, or any Two of them, to be paid by such Person or Persons as aforesaid, and also all Costs, Charges, and Expences occasioned by or attending such Entry upon and Perception of the Rents and Profits of the same Premises, shall respectively be fully paid and satisfied.

Power to appeal to the Quarter Sessions.

And be it further Enacted, That if any Person or Persons shall think him, her, or themselves aggrieved by any Thing done in pursuance of this Act, then and in every such Case (except in such Cases where the Orders and Determinations of the said Commissioners are directed to be binding and conclusive upon all Parties) he, she, or they may appeal to the next General Quarter-Sessions of the Peace which shall be held for the Division of *Kesteven*, in the said County of *Lincoln*, within Six Calendar Months next after the Cause of Complaint shall have arisen; and the Justices in their said General Quarter-Sessions are hereby required to hear and determine the Matter of every such Appeal, and to make such Order, and award such Costs and Damages, as to them in their Discretion shall seem reasonable, and by their Order or Warrant to levy the Costs and Damages which shall be so awarded by Distress and Sale of the Goods and Chattels of the Party or Parties liable to pay the same, rendering the Overplus (if any) to the Owner or Owners of such Goods and Chattels, after deducting the reasonable Charges of every such Distress and Sale; which Determination of the said Justices shall be final and conclusive to all Parties concerned, and shall not be removed or removeable by *Certiorari*, or any other Writ or Process whatsoever, into any of his Majesty's Courts of Record at *Westminster* or elsewhere.

Vicar to grant Leases.

And be it further Enacted, That it shall and may be lawful to and for the said *John Towers* and his Successors, Vicars as aforesaid (by and with the Consent of the Lord Bishop of *Lincoln* for the Time being, to be certified and declared by an Instrument or Writing under

under his Hand and Seal, attested by Two credible Witnesses, and annexed to the Lease or Leases) to grant any Lease or Leases to any Person or Persons of all or any Part or Parts of the Allotment or Allotments to be set out to and for him and his Successors, Vicars as aforesaid, by virtue of this Act, for any Number of Years, not exceeding Twenty-one Years, so as the same shall commence within Six Calendar Months next after the Execution of the said Award or Instrument; and so as such Lease or Leases be not made without Impeachment of Waste by any express Words to be therein contained; and so as such Lessee or Lessees shall and do, at his or their own proper Costs and Charges, make or cause to be made all proper and sufficient Subdivision Fences of and in the said Allotments so to be demised or leased as aforesaid, and shall and do, at his or their own like Costs and Charges, keep up, support, and maintain such Subdivision Fences and Ring Fences, and every of them, and the Quick to be planted thereon, during the Remainder of his or their Terms of and in the said Premises; and so as such Lessee or Lessees be obliged to spread, spend, and consume on the Premises in an Husbandlike Manner, during their
 44 respective Leases, all the Dung and Manure arising from the Product thereof; and so as the best and most improved yearly Rent or Rents be reserved and made payable thereon, without any Fine or Premium being taken by the said Vicar or his Successors; and so as the usual Powers of Re-entry for Non-payment of Rent be inserted therein; and so as the respective Lessee or Lessees do seal, execute, and deliver a Counterpart of such Lease or Leases; and every such Lease or Leases, so to be made as aforesaid, shall be good, valid, and effectual in Law to all Intents and Purposes whatsoever; any Law, Statute, or Usage to the contrary notwithstanding.

And be it further Enacted, That all and every Person or Persons For assigning Securities. to whom any Grant, Mortgage, Lease, or Demise shall be made by virtue of this Act as a Security for any Sum or Sums of Money by him, her, or them lent and advanced on the Credit and for the Purposes mentioned in this Act, or who shall be intitled to the Money thereby secured, shall and may from time to time, by any Deed or Deeds, Writing or Writings, under his and their Hand and Seal or Hands and Seals, to be executed in the Presence of Two or more credible Witnesses, assign or transfer the same Security or Securities, or the principal Money and Interest thereby secured, and all Benefit, and all his and their Right, Title, and Interest in and to the same, unto any Person or Persons whomsoever, who may again in like Manner assign the same, and so *toties quoties*; and such Mortgagee or Mortgagees, Assignee or Assignees, his, her, and their Executors and Administrators, and all Persons claiming under them, or any of them, shall and may use, take, and pursue all such Methods, Courses, and Expedients, in Law or Equity, for recovering and obtaining the Possession of the Premises so to be mortgaged, demised, or assigned as
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aforesaid, in case of Non-payment of the principal Money and Interest to be thereby secured, or any Part thereof, as is or are used, taken, and pursued in all Cases of the like Nature.

Persons burn-
ing or de-
stroying
Works guilty
of Felony.

And be it further Enacted, That all and every Person or Persons whomsoever who shall at any Time or Times hereafter wilfully and maliciously cut, break down, burn, destroy, or damage any Bank, Mill, Engine, or Sluice, or any other of the Works which shall be erected or made for the draining and imbanking the said Fen, or any Part thereof, and shall thereof be lawfully convicted, shall be adjudged guilty of Felony, and shall be subject and liable to the like Pains and Penalties as in Cases of Felony, and the Court by or before whom such Person shall be tried shall and have hereby Power and Authority to transport such Felon and Felons for Seven Years in like Manner as other Felons are directed to be transported by the Laws and Statutes of this Realm.

Nothing in
this Act to
obstruct the
Works of
Drainage into
the Witham
by an Act of
the Second of
his present
Majesty.

Provided always, and be it further Enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, obstruct, prevent, or defeat any of the Works made or to be made in pursuance of an Act passed in the Second Year of the 46
Reign of his present Majesty, intituled, "An Act for draining and preserving certain Low Lands called *The Fens*, lying on both Sides
" of the River *Witham*, in the County of *Lincoln*, and for restoring
" and maintaining the Navigation of the said River from the *High*
" *Bridge*, in the City of *Lincoln*, through the Borough of *Boston*,
" to the Sea;" and that the Commissioners under this Act shall have no Power to divert the Waters from their ancient Outfalls into the said River *Witham* or Haven of *Boston*; any Thing herein before contained to the contrary notwithstanding.

Not to preju-
dice the Pow-
ers of the
Commission-
ers acting un-
der an Act
for draining
Lands be-
tween Boston
Haven and
Bourn.

Provided also, and be it further Enacted, That nothing in this Act contained shall extend or be construed to extend to empower the Commissioners acting by virtue of this Act to intermeddle with, or to invalidate, lessen, alter, or take away any of the Rights, Powers, and Authorities, which by the said Act, intituled, "An Act for
" draining and improving certain Low, Marsh, and Fen Lands, lying
" between *Boston Haven* and *Bourn*, in the Parts of *Kesteven* and
" *Holland*, in the County of *Lincoln*," were vested in all or any of the Commissioners acting under the said Act; but that the same shall be and continue as fully to all Intents and Purposes as if this Act had never been made; any Thing herein before contained to the contrary notwithstanding.

Saving of
Lords Rights.

And be it further Enacted, That nothing in this Act contained shall prejudice the Rights of the said *Matthew Lord Fortescue* as Lord of the said Manors of *Billingborough* and *Birtborpe*, or of the 47
said *Thomas Burton* as Lord of the said Manor of *Buckminster Hall* in

in *Billingborough* aforesaid, or of any future Lord or Lords of the said several Manors, in or to the Seigniories, Royalties, Rights, and Services incident and belonging to the said Manors; but that such Lord or Lords for the Time being, and all Persons claiming or to claim under or in Trust for them, or either of them, as Lord or Lords of the said respective Manors, shall at all Times hereafter hold and enjoy all Rents, Services, Rights, Courts, Perquisites and Profits of Courts, and all other Royalties, Privileges, and Jurisdictions to the said respective Manors, or to the Lords thereof respectively, belonging or appertaining, or by them respectively to be had, taken, or enjoyed within the said Manors respectively (other than and except such Right of Common as can or may be claimed by the said respective Lords of the said several Manors, or either of them, upon the Lands hereby intended to be divided and inclosed, and their and each of their Interest in the Soil of the said common Fen) in as full, ample, and beneficial Manner, to all Intents and Purposes, as they, or either of them, might have held and enjoyed the same in case this Act had not been made.

Saving always to the KING's most Excellent MAJESTY, **General Saving.** his Heirs and Successors, and to all and every Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators (other than and except the respective
48 Persons to whom any Allotment or Allotments shall be made by virtue of this Act, in respect of the Interest or Property for which such Allotment or Allotments shall be made, his, her, and their Heirs, Successors, Executors, and Administrators) all such Estate and Interest as they, every or any of them, had or enjoyed of, in, to, or in respect of the said open common Fields, meadow Grounds, and common Fen, so intended and appointed to be inclosed as aforesaid, before the Passing of this Act, or would or ought to have had or enjoyed in case the same had not been made; but no such other Person or Persons, Bodies Politick or Corporate, his, her, or their Heirs, Executors, Administrators, or Successors shall have Power to defeat the End and Design of this Act by avoiding, impeaching, or any ways disturbing any of the several Divisions, Allotments, or Appointments of Lands and Grounds to be made in pursuance thereof, but he, she, and they shall be so far bound by this Act as to accept the several Allotments and Appointments which shall be allotted and assigned by virtue of this Act, in Lieu of all such Lands, Grounds, common Right, Tithes, or other Interests, as he, she, or they shall claim to be intitled to, or would have been intitled to, in case this Act had not been made.

And be it further Enacted, That this Act shall be adjudged, Publick Act. deemed, and taken to be a publick Act; and all Judges, Justices, and other Persons are hereby required to take Notice thereof as such, without the same being specially pleaded.

AN ACT

FOR

Dividing and Inclosing the Open
and Common Fields, Meadows,
and Common Fen within the
Parishes of *Billingborough* and
Birtherpe, in the County of *Lin-*
coln, and for Draining and Im-
proving the said Fen.

1768. J

